

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA and)
KILOLO KIJAKAZI, COMMISSIONER OF)
the SOCIAL SECURITY)
ADMINISTRATION,)
Petitioners,) No. 23 C 15450
v.)
OFELIA IONESCU,)
Respondent.)

**PETITION FOR SUMMARY ENFORCEMENT
OF ADMINISTRATIVE SUBOENA DUCES TECUM**

The United States of America and the Commissioner of the Social Security Administration, by their attorney, Morris Pasqual., Acting United States Attorney for the Northern District of Illinois, petition this court for an order enforcing a subpoena issued by a Social Security Administration Administrative Law Judge (ALJ) to respondent, Ofelia Ionescu, M.D., pursuant to 42 U.S.C. § 405(d).

1. This petition has been brought under 42 U.S.C. § 405(e) to enforce the ALJ subpoena.
2. Dr. Ionescu provided medical care to Keaira Lowe. Ionescu's address is 1026 W. Lawrence Ave., Chicago, Illinois 60640, which is within the jurisdiction of this court.
3. The court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this matter arises under the Social Security Act of 1935, 42 U.S.C. § 405.

4. The Act authorizes the Commissioner of Social Security the power to issue subpoenas requiring the production of evidence that relates to matters under investigation or in question. 42 U.S.C. § 405(d).

5. In the event of a failure to obey a duly served subpoena, an action may be brought in the appropriate federal district court to enforce the subpoena. 42 U.S.C. § 405(e).

6. A Social Security Administration ALJ issued a subpoena on November 7, 2022, to Dr. Ionescu. Attached as Exhibit 1.

7. The subpoena seeks all records from Dr. Ionescu pertaining to Keaira Lowe's treatment record.

8. Keaira Lowe, a *pro se* claimant protectively filed an application for Supplemental Security Income benefits on August 16, 2020, alleging disability beginning on January 1, 2018.

9. The State agency Disability Determinations Services (DDS) denied the claim on initial review and reconsideration, and the claimant timely filed a request for hearing on February 9, 2022. Lowe informed the SSA that she received treatment from Dr. Ionescu from March 2018 to August 2019.

10. The DDS was unsuccessful in securing any records from Dr. Ionescu through its request and authorization from Lowe.

11. After the ALJ conducted a hearing in which testimony was obtained from the claimant and her mother, the Hearing Office again attempted to obtain records from Dr. Ionescu through a request issued by the DDS. This was again unsuccessful, and as a result, the ALJ issued a subpoena to Dr. Ionescu to provide all of the claimant's treatment records.

12. Production of the records or documents were due no later than December 7, 2022. However, Dr. Ionescu failed to produce any of the records as directed by the subpoena.

13. SSA Legal Specialist, Noemi Quinones, called Dr. Ionescu's office twice in March 2023, both times she left detailed voice messages regarding the subpoena to obtain Lowe's treatment records from Dr. Ionescu. Dr. Ionescu did not respond to either voice message or provide the requested documents. Declaration attached as Exhibit 2.

14. Administrative Law Judge Kevin Vodak then sent Dr. Ionescu a letter on April 14, 2023, enclosing another copy of the subpoena and authorization and requiring the treatment records to be provided by Friday, April 28, 2023. Attached as Exhibit 3. Dr. Ionescu did not respond or provide the requested documents.

15. After receiving no records in response to the subpoena or its communications to Dr. Ionescu, the SSA referred this matter to the United States Attorney's Office. Upon receiving this matter, and prior to filing this petition, the undersigned counsel also attempted to retrieve the requested treatment records from Dr. Ionescu. During a phone call between the undersigned counsel and Dr. Ionescu in July 2023, Dr. Ionescu agreed to provide the treatment records to SSA. Weeks went by, however, and the records were never provided. As a result, counsel sent Dr. Ionescu a letter requiring the treatment records to be produced by September 29, 2023. Attached as Exhibit 4. Dr. Ionescu did not produce the treatment records, nor did she contact the U.S. Attorney's Office as instructed. Dr. Ionescu's failure to provide the treatment records continues to the date of this petition.

16. Dr. Ionescu's failure to comply with the subpoena has prevented the SSA from being able to complete its investigation into Lowe's application for Supplemental Security Income.

17. All required administrative steps for the issuance of these summonses have been taken.

WHEREFORE, petitioners request this court to:

- a. Enter an order for the respondent Ofelia Ionescu, M.D., to show cause why the respondent cannot comply with and obey the summonses (a draft order with suggested dates is submitted with this motion);
- b. Order that the United States recover its costs incurred in maintaining this proceeding; and
- c. Grant such other and further relief as the court deems proper or as justice may require.

Respectfully submitted,

MORRIS PASQUAL
Acting United States Attorney

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Certified Mail: 7008 0150 0003 1298 8220

United States of America
Office of Hearings Operations
Ste 200
1033 University PL
Evanston, IL 60201-3172
Tel: (866)336-6051

SUBPOENA

In the case of

Claim for

Keaira Lowe

(Claimant)

Supplemental Security Income

(Wage Earner) (Leave blank if same as above)

To: Ofelia M. Ionescu, MD
1026 W Lawrence Ave
Chicago, IL 60640

You are hereby required to furnish and deliver any/all records pertaining to the above claimant's treatment records and any other evidence in your possession relating to the above matter for the period covering January 1, 2018, to Present to Kevin Vodak, an Administrative Law Judge of the Office of Disability Adjudication and Review. The records should be delivered on or before the 07th of December 2022 at 4:30pm at 1033 University Place, Suite 200, Evanston, IL 60201.

COMMISSIONER OF SOCIAL SECURITY
By Kevin Vodak
Administrative Law Judge

Date: November 7, 2022

SOCIAL SECURITY ACT, AS AMENDED

Section 205(d)-(42 U.S.C.A. §405(d))

(Section 1631(d)(1) (42 U.S.C.A. §1383(d)(1) applies to supplemental security income cases, section 1872 (42 U.S.C.A. §1395ii) applies to medicare cases, and section 413(b) of the Federal Coal Mine Health and Safety Act, as amended, (30 U.S.C.A. §923(b)) applies to black lung cases.)

"For the purpose of any hearing, investigation, or other proceeding authorized or directed under this title, or relative to any other matter within his jurisdiction hereunder, the Commissioner shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Commissioner. Such attendance of witnesses and production of evidence at the designated place of hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpoenas of the Commissioner shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post-office receipt therefore signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States."

RETURN OF SERVICE

I hereby certify that a copy of this subpoena was served by me on November 7, 2022, by (checked method used).

Personally giving a copy to:

(Name of person served)

(Title of person served, if corporation)

at

(Place of service)

Sending a copy by registered or certified mail to
7008 0150 0003 1298 8220:

Ofelia M. Ionescu, MD

(Name of person served)

At 1026 W. Lawrence Chicago, IL 60640

(Place to which copy mailed)

and that I was duly authorized to do so.

Date:11/08/2022

Noemi Quinones

(Name of person making service)

Legal Assistant

(Title)

UNITED STATES DISTRICT COURT
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EASTERN DIVISION

UNITED STATES OF AMERICA and)
KILOLO KIJAKAZI, ACTING)
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OFELIA IONESCU,)
Respondent.)

DECLARATION OF NOEMI QUINONES

Noemi Quinones, for her declaration pursuant to 28 U.S.C. § 1746, states as follows:

I am employed by Social Security Administration (SSA) as a Legal Specialist, Office of Hearing Operations, Evanston Hearing Office, in Evanston, Illinois.

1. My duties as a Legal Specialist involve case development and work up of a claimant's medical record associated with their request for benefits. This occasionally involves mailing out subpoenas issued by an Administrative Law Judge (ALJ) when a medical provider has not complied with prior requests and authorizations and then contacting the subpoena recipients to secure their compliance. I have been in this position for nine months, prior to that, I was also responsible for these tasks as a Legal Assistant for five years. I have been employed with SSA for approximately 20 years.

2. SSA has been attempting to retrieve Dr. Ofelia Ionescu's treatment records since 2022. When Dr. Ionescu did not send her records, an SSA ALJ issued a subpoena to Dr. Ionescu

to provide all of Keaira Lowe's treatment records no later than December 7, 2022. Dr. Ionescu did not provide any records.

3. In March 2023, I attempted to contact Dr. Ionescu in connection with our efforts to subpoena Keaira Lowe's treatment records that are in Dr. Ionescu's possession.

4. On March 1, 2023, I called Dr. Ionescu and left her a detailed voice message stating we have been trying to get in touch with her regarding Keaira Lowe. I also stated that we have submitted a subpoena and have not received a response yet either. At the end, I left my callback information (office, name, number, extension) and asked that she call me back at her earliest convenience; she did not. The voice message greeting stated Dr. Ionescu's name.

5. On March 22, 2023, I again called Dr. Ionescu and left a detailed voice message regarding Keira Lowe's treatment records and asked that she call me back at her earliest convenience; she did not.

6. I mailed a certified letter from the ALJ to Dr. Ionescu that allowed Dr. Ionescu until April 28, 2023 to provide the requested records. A copy of the subpoena as well as Keira Lowe's authorization was enclosed with the letter. Dr. Ionescu was notified that if she did not send the records by the deadline, we would seek enforcement assistance from the U.S. Attorney's Office. The certified mail return receipt was returned to our office on April 28, 2023, indicating the letter was delivered on April 21, 2023, but the recipient did not sign on delivery.

7. As of the date of this declaration, Dr. Ionescu never contacted me or provided the requested documents.

I declare under penalty of perjury that the foregoing is true and correct.

Noemi Quinones
Legal Specialist



SOCIAL SECURITY ADMINISTRATION

Refer To:
Keaira Lowe



Office of Hearings Operations
Ste 200
1033 University PL
Evanston, IL 60201-3172
Tel: (866)336-6051 / Fax: (833)619-0758

April 14, 2023

Ofelia M. Ionescu, MD
1026 W Lawrence Ave
Chicago, IL 60640

Dear Dr. Ionescu:

Keaira Lowe, who received treatment from you has applied for Social Security disability benefits. In order to complete her claim, she must provide medical evidence of her treatment. To that end, the state agency Disability Determinations (DDS) and Administrative Law Judge (ALJ) Kevin Vodak made several attempts to obtain medical evidence from your office, including a subpoena issued by ALJ Vodak. We are making a last attempt to obtain the medical evidence from you before referring this matter to the United States Attorney's Office, who will ask the court to require you to appear personally at the courthouse to comply with the subpoena.

Enclosed please find another copy of ALJ Vodak's subpoena and a signed consent from Keaira Lowe. We request that the medical evidence be provided by Friday, April 28, 2023. If there has been no response from you at that time, we will refer this matter to the United States Attorney's Office for further enforcement proceedings. 42 U.S.C. § 405(e); *see also Treadwell v. Schweiker*, 698 F.3d 137, 141 (2d Cir. 1983).

If you have any questions, or wish to discuss this matter, please contact Noemi Quinones at 866-336-6051 Extension 33025.

Sincerely,

Kevin Vodak
Administrative Law Judge



U.S. Department of Justice

*United States Attorney
Northern District of Illinois*

*Eric D. Allison
Assistant United States Attorney*

*Dirksen Federal Courthouse
219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604*

*Phone: 312-353-7912
eric.allison@usdoj.gov*

September 12, 2023

Via U.S. mail

Ofelia M. Ionescu, MD
1026 W. Lawrence Ave
Chicago, IL 60640

Re: Keaira Lowe Medical Records

Dear Dr. Ionescu

We are making another attempt to obtain medical records from your office. I spoke with an assistant at your office on or about August 2, 2023, and was informed that the requested records would be provided to Social Security. To date, Social Security has still not received the records. You are required to furnish and deliver any/all records you have pertaining to the treatment of Keaira Lowe, covering the period of January 1, 2018 to present. Please provide these records by Friday, September 29, 2023. If the documents are not provided, we will request the U.S. District Court of this district to require you to appear personally in court. The documents should be mailed to:

Office of Hearings Operations
1033 University PL
Ste 200
Evanston, IL 60201

Based on the difficulties we have had contacting your office by telephone, please send me an email confirming your intent to comply with this letter and any questions at eric.allison@usdoj.gov. Thank you.

s/ Eric Allison
ERIC ALLISON
Assistant United States Attorney